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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RIGHTHAVEN LLC, a Nevada limited-
liability company,

Plaintiff,

v.

ODDS ON RECORDING STUDIOS, INC., a
Nevada domestic corporation; WALTER B.
SIMMONS II, an individual; and TED
JOSEPH, an individual,

Defendants.

Case No.: 2:10-cv-1114

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Righthaven LLC (“Righthaven”) complains as follows against Odds On Recording Studios, Inc. (“Odds On”), Walter B. Simmons II (“Mr. Simmons”), and Ted Joseph (“Mr. Joseph”; collectively with Odds On and Mr. Simmons known herein as the “Defendants”), on information and belief:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. Odds On is, and has been at all times relevant to this lawsuit, a Nevada domestic corporation.

5. Odds On is, and has been at all times relevant to this lawsuit, identified by the current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant of the Internet domain found at <oddsonrecording.com> (the “Domain”).

6. Mr. Simmons is, and has been at all times relevant to this lawsuit, identified as the President, Director, Secretary, and Treasurer of Odds On, according to the Nevada Secretary of State Business Entity database.

7. Mr. Simmons is, and has been at all times relevant to this lawsuit, a resident of Nevada.

8. Mr. Joseph is, and has been at all times relevant to this lawsuit, identified by the content accessible through the Domain (said content accessible through the Domain known herein as the “Website”) as the President of Odds On.

9. Mr. Joseph is, and has been at all times relevant to this lawsuit, a resident of Nevada.

10. Odds On is, and has been at all times relevant to this lawsuit, the self-proclaimed owner of the copyright(s) in the work(s) posted on the Website, as evidenced by a copyright notice displayed on the Website: “© 2009 Odds On Records.”

JURISDICTION

11. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

12. Righthaven is the owner of the copyright in the literary work entitled: “Good comes from worlds colliding” (the “Work”), attached hereto as Exhibit 1.

13. At all times relevant to this lawsuit, the Work has depicted and depicts the original source publication as the Las Vegas *Review-Journal*.

14. The Defendants willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.

15. On or about May 30, 2010, the Defendants displayed, and continue to display, an unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 2, on the Website.

VENUE

16. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim for relief are situated in Nevada.

17. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(3) and § 1400(a), because Mr. Simmons and Mr. Joseph may be found in Nevada.

18. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(c), because Odds On is subject to personal jurisdiction in Nevada.

FACTS

19. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).

20. Righthaven is the owner of the copyright in and to the Work.

21. The Work was originally published on May 30, 2010.

22. On June 28, 2010, the United States Copyright Office (the “USCO”) granted Righthaven the registration to the Work, copyright registration number TX0007164434 (the

1 “Registration”) and attached hereto as Exhibit 3 is evidence of the Registration in the form of a
2 printout of the official USCO database record depicting the occurrence of the Registration.

3 23. On or about May 30, 2010, the Defendants displayed, and continue to display, the
4 Infringement on the Website.

5 24. The Defendants did not seek permission, in any manner, to reproduce, display, or
6 otherwise exploit the Work.

7 25. The Defendants were not granted permission, in any manner, to reproduce,
8 display, or otherwise exploit the Work.

9
10 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

11 26. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
12 25 above.

13 27. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
14 U.S.C. § 106(1).

15 28. Righthaven holds the exclusive right to prepare derivative works based upon the
16 Work, pursuant to 17 U.S.C. § 106(2).

17 29. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
18 17 U.S.C. § 106(3).

19 30. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
20 U.S.C. § 106(5).

21 31. The Defendants reproduced the Work in derogation of Righthaven’s exclusive
22 rights under 17 U.S.C. § 106(1).

23 32. The Defendants created an unauthorized derivative of the Work in derogation of
24 Righthaven’s exclusive rights under 17 U.S.C. § 106(2).

25 33. The Defendants distributed, and continue to distribute, an unauthorized
26 reproduction of the Work on the Website, in derogation of Righthaven’s exclusive rights under
27 17 U.S.C. § 106(3).
28

b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and

c. All financial evidence and documentation relating to the Defendants' use of the Work;

3. Direct GoDaddy and any successor domain name registrar for the Domain to lock the Domain and transfer control of the Domain to Righthaven;

4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. § 504(c);

5. Award Righthaven costs, disbursements, and attorneys' fees incurred by Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

6. Award Righthaven pre- and post-judgment interest in accordance with applicable law; and

7. Grant Righthaven such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

Dated this eighth day of July, 2010.

RIGHTHAVEN LLC

By: /s/ Joseph C. Chu
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